

Decision 02-03-037 March 21, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric  
Company (U 902-E) for an Order Implementing  
Assembly Bill 265.

Application 00-10-045  
(Filed October 24, 2000)

Application of San Diego Gas & Electric  
Company (U 902-E) for Authority to Implement  
an Electric Rate Surcharge to Manage the Balance  
in the Energy Rate Ceiling Revenue Shortfall  
Account.

Application 01-01-044  
(Filed January 24, 2001)

**O P I N I O N**

This decision awards Aglet Consumer Alliance (Aglet) \$15,555.00 in compensation for contributions to Decision (D.) 01-09-059.

**1. Background**

In this phase of the consolidated applications of San Diego Gas & Electric Company (SDG&E), the Commission established an interim electric surcharge meant to cover costs incurred on behalf of customers by the California Department of Water Resources (DRW), and adopted revenue allocation principles and retail rates.

A prehearing conference was conducted on February 16, 2001, in San Diego, at which Aglet's appearance was noted. On March 12, 2001, Aglet filed a timely notice of intent to claim compensation. On April 30, 2001, assigned Commissioner Wood issued a ruling in which he found that Aglet made an

adequate showing of significant financial hardship, established a rebuttable presumption of eligibility, and is eligible for an award of intervenor compensation.

Aglet's Director, James Weil, participated in the hearings and argument that led to D.01-09-059. Aglet served testimony, cross-examined witnesses, and filed briefs and comments. The Commission approved D.01-09-059 on September 20, 2001. The decision adopted a DWR surcharge of 9.02 cents per kilowatt-hour (kWh), increased system average rates by 1.46 cents per kWh, and ordered SDG&E to file an advice letter to implement rates that comport with adopted revenue allocation and rate design principles and practices. Aglet's request for compensation for its contribution to that decision is unopposed.

## **2. Requirements for Awards of Compensation**

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Pub. Util. Code §§ 1801-1812. Pub. Util. Code § 1804(a) requires an intervenor to file a Notice of Intent (NOI) within 30 days of the prehearing conference or by a date established by the Commission. Other code sections address requests for compensation filed after a Commission decision is issued. Section 1804(c) requires an intervenor requesting compensation to provide "a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding." Section 1802(h) states that "substantial contribution" means that,

"in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the

customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."

Section 1804(e) requires the Commission to issue a decision that determines whether or not the customer has made a substantial contribution and the amount of compensation to be paid. The level of compensation must take into account the market rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

### **3. NOI to Claim Compensation**

Aglet filed an NOI to claim compensation in this proceeding as required by Section 1804(a). Aglet represents residential and customer interests that would otherwise be under-represented in this proceeding. While the Office of Ratepayer Advocates (ORA) was an active party, by charter ORA must represent the interests of all customers, not just residential and small commercial customers. The Utility Consumers Action Network (UCAN) also participated, representing only residential and small commercial customers, but UCAN did not actively participate in revenue allocation and rate design issues. Aglet and UCAN cooperated informally during the proceeding in order not to duplicate their efforts. We find that Aglet represented ratepayers who otherwise would have been under-represented, and that Aglet's efforts did not duplicate the efforts of others.

### **4. Contributions to Resolution of Issues**

A party may make a substantial contribution to a decision in various ways. For example, it may offer a factual or legal contention upon which the

Commission relied in making a decision, or it may advance a specific policy or procedural recommendation that the Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party's position in total.

In this proceeding, Aglet dealt with several technical issues related to revenue requirement, revenue allocation and rate structure.

#### **4.1 Revenue Requirement**

The central point of Aglet's showing was that there was no justification for any surcharge in excess of rates needed to recover the DWR revenue requirement. Aglet opposed the reallocation of revenue requirements embedded in rates before issuance of D.01-09-059, and it opposed ORA's recommendation for a surcharge of 3 cents per kWh. Aglet's argument generally prevailed. The decision allows SDG&E to recover no more than the DWR revenue requirement. Because the Commission did not cite Aglet's work specifically, Aglet has reduced its compensation request by 20% of its time allocated to this issue.

#### **4.2 Revenue Allocation**

Aglet recommended that DWR revenue requirements be allocated to customer classes based on equal cents per kWh, and that revenue shortfalls due to the statutory exemption of 130% of baseline usage be allocated to nonexempt usage based on equal cents per kWh. Federal Executive Agencies (FEA) opposed equal cents per kWh allocation, and both SDG&E and FEA opposed allocation of 130% of baseline shortfalls to nonresidential customers. Aglet prevailed on both of these issues. The Commission found that equal cents per kWh allocation is consistent with allocation of DWR revenue requirements ordered for Pacific Gas and Electric Company and Southern California Edison Company in D.01-05-064.

ORA joined Weil in supporting allocation to all nonexempt sales, and the Commission decision agreed with that position.

#### **4.3 Rate Structure and Rate Tiers**

Aglet recommended retaining the distinction between base rates and the DWR surcharge, establishing residential rate tiers based on the progression of baseline quantities that define the tiers, and rejecting commercial rate tiers. In D.01-09-059, the Commission retained a surcharge structure and rejected commercial rate tiers. On residential rate tiers, the Commission considered concerns raised by Aglet, and then exercised its judgment in setting tier differentials.

#### **4.4 Other Issues**

Aglet also addressed the issue of sales forecast precedents, but the Commission in its decision did not reach this issue. Aglet also opposed capping of rates for industrial customers but accepted capping of agricultural rates, a position generally adopted by the Commission. Aglet and other parties also recommended deferral of baseline issues to a generic proceeding, and the Commission in its decision did not consider increasing baseline allowances.

#### **4.5 Conclusion on Substantial Contributions**

Aglet has demonstrated that it made a substantial contribution to the outcome in D.01-09-059. Moreover, Aglet's participation was productive in that the impact of its participation far exceeded its fees and other costs. For example, the amount of the 130% of baseline shortfall for SDG&E is roughly \$53 million per year. Although some of the shortfall will stay within upper tiers of residential usage, the Commission's decision to allocate the shortfall to all nonexempt sales will save residential customers millions of dollars.

## 5. The Reasonableness of Requested Compensation

Aglet requests compensation in the amount of \$15,555.00. Documentation attached to the request shows the following compilations.

### Weil:

58.0 hours @ \$220	\$12,760.00
19.8 hours @ \$110	2,178.00

### Other:

Copies	\$152.36
Postage, FAX	135.82
Travel costs	328.82

<b>Total</b>	<b><u>\$15,555.00</u></b>
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### 5.1 Hours Claimed

Aglet has maintained detailed records of time spent on the proceeding. Spreadsheet summaries of hours and direct expenses are set forth in an attachment to the compensation request. Weil's time is separated into professional hours and travel and compensation request hours as shown on the spreadsheets. Aglet also appropriately breaks down time spent on various issues and activities. We find the compilation of hours claimed to be a reasonable one.

### 5.2 Hourly Rates

Section 1806 requires the Commission to compensate eligible parties at a rate that reflects the "market rate paid to persons of comparable training and experience who offer similar services." Aglet requests Commission approval of (1) an hourly rate of \$220 for Weil's professional work performed during the years 2000 and 2001, and (2) one half that rate for travel time associated with professional work and for preparation of this compensation request. The Commission has previously awarded Weil compensation at a professional rate of

\$220 per hour and a travel and compensation rate of \$110 per hour for work in 2000 and 2001. (*See, e.g.*, D.00-07-015, D.00-07-046.) We will use these rates here.

### **5.3 Other Costs**

Aglet claims \$617 for costs relating to photocopying, postage, facsimile reproduction and travel costs. Mileage is calculated at 31 cents per mile, the minimum Internal Revenue Service rate. We find this request reasonable.

### **6. Award**

We award Aglet \$15,555.00 for contributions to D.01-09-059. Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate) commencing the 75th day after Aglet filed this compensation request (February 4, 2002) and continuing until the utility makes full payment.

### **7. Waiver of Comment Period**

This is a compensation matter, accordingly, pursuant to Pub. Util. Code § 311(g)(3) and Rule 77.7(f)(6) of the Rules of Practice and Procedure, the otherwise applicable 30-day review and comment period is being waived.

### **Findings of Fact**

1. Aglet timely requests compensation for contributions to D.01-09-059 as set forth herein.
2. Aglet requests hourly rates for professional work that have already been approved by the Commission for 2000 and 2001.
3. The miscellaneous costs incurred by Aglet in this proceeding are reasonable.

### **Conclusions of Law**

1. Aglet has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation.
2. Aglet should be awarded \$15,555.00 for contributions to D.01-09-059 in this proceeding.
3. This order should be effective today.

### **O R D E R**

#### **IT IS ORDERED** that:

1. Aglet Consumer Alliance (Aglet) is awarded \$15,555.00 as set forth herein for substantial contributions to Decision 01-09-059.
2. San Diego Gas & Electric Company shall, within 30 days of this order, pay Aglet \$15,555.00 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release, G.13, with interest beginning February 4, 2002, and continuing until full payment has been made.

This order is effective today.

Dated March 21, 2002, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
CARL W. WOOD  
GEOFFREY F. BROWN  
MICHAEL R. PEEVEY  
Commissioners